IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2510 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMANBHAI FANABHAI BHAVSAR

Versus

B M BHATT

Appearance:

1. Special Civil Application No. 2510 of 1982
   PARTY-IN-PERSON for Petitioner No. 1
   MR KS NANAVATI for Respondent No. 1
   NOTICE SERVED for Respondent No. 2
   MR RV DESAI, AGP for Respondents No. 3-5

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 29/11/2001

ORAL JUDGEMENT

This is a petition filed by one Ramanbhai Fanabhai Bhavsar for himself and on behalf of 26 other employees of Shree Bansidhar (Pvt.) Ltd., Ahmedabad for

wage revision. The petitioners had prayed that the Technical Director of Shree Bansidhar (Pvt.) Ltd., a textile mill at Ahmedabad and the General Secretary, General Workers Union, C/o. Majoor Mahajan Sangh, Ahmedabad be directed to treat all the employees employed in Shree Bansidhar Processors (Pvt.) Ltd. (hereinafter referred to as `the textile mill') equally and equitably in all respect and discriminatory treatment meted out to the petitioners and other co-employees of the Folding, Stamping and Engraving Departments should immediately be stopped and they should be given appropriate wage rise looking to the nature of duties performed by them. The petitioners had also prayed that the State of Gujarat through its Secretary in the Labour Department be directed to investigate into the facts of the case through the Commissioner of Labour and to refer an industrial dispute regarding wage rise of the petitioners alongwith their co-employees in the aforesaid three departments of the textile mill in question to the Industrial Court.

2. The petition was filed in 1982 and was also admitted and ordered to be heard in the same year. Affidavit in reply was also filed by the Technical Director of the textile mill opposing the petition and pointing out that a settlement was already arrived at between the management of the textile mill and respondent No. 2-General Workers Union which is a representative union under the Bombay Industrial Relations Act. It was further pointed out in the said affidavit that the management as well as the representative union had considered all the relevant facts while arriving at the settlement regarding the wages payable to the workmen in the different departments of the textile mill and at that time performance of the Folding Department, Stamping Department and Engraving Department was also considered. In fact, the Engraving Department was as good as closed since last few years and there were hardly 4 employees employed in the said department. As regards Stamping and Folding Departments, their performance for the year 1981-82 was not very encouraging and that the said departments had shown improvement of only 5% and 7% respectively for the last three years and, therefore, the management as well as the representative union had concluded that the said departments were not capable of showing any improvement in productivity. In view of the above, while arriving at the settlement on 5.6.1982, the management as well as the representative union had made reasonable classification on the basis of the productivity and, therefore, excluded the said three departments from the wage rise.

3. For whatever reasons, the petition has not been heard for the last 19 years. Mr Nanavati appearing for respondent No.1-Management states that the petitioner has been appearing as a party-in-person and has not remained before the Court on the last 3-4 occasions inspite of the notices sent to the petitioners. Mr Nanavati further states that the textile mill of Shree Bansidhar (Pvt.) Ltd. has already been closed down for the last many years.

4. In view of the above facts, the Court does not consider this to be a fit case for adjudicating the issues raised in the petition for the period prior to the closure of the textile mill as on the one hand no assistance is available from the petitioners and on the other hand no useful purpose will be served in going into the merits of the dispute for the remote past when the textile mill in question, which is already closed down, would not be able to provide any amount to the petitioners even if the Court were to find any merit in the petition and were inclined to grant any relief.

5. For the reasons aforesaid, the petition is disposed of without going into the merits of the issues raised in the petition.

Rule is discharged with no order as to costs.

(M.S. Shah, J.)

sundar/-